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19 ZAPPOS.COM, INC.

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION

22 NCR CORPORATION, a Maryland
23 Corporation,

24 Plaintiff,

25 v.

26 ZAPPOS.COM, INC., a California
27 Corporation,

28 Defendant.

Case No. C-06-5599 WHA

**STIPULATION AND [PROPOSED]
ORDER OF DISMISSAL WITH
PREJUDICE**

STIPULATION

IT IS HEREBY STIPULATED, by and between Plaintiff NCR Corporation. ("NCR") and Defendant Zappos.com, Inc. ("Zappos"), through their respective counsel of record, that:

1. NCR filed the Complaint in this action on September 12, 2006, asserting claims against Zappos;
2. NCR filed the Amended Complaint in this action on November 14, 2006, asserting claims against Zappos;
3. Zappos filed an Answer and Counterclaims on November 30, 2006;
4. NCR's time to answer or otherwise respond to the Answer and Counterclaims filed by Zappos has not yet run;
5. Because the parties have reached a settlement in this action, NCR hereby dismisses its claims against Zappos with prejudice and Zappos hereby dismisses its counterclaims against NCR with prejudice pursuant to Federal Rule of Civil Procedure 41(a);
6. Each party will bear its own legal expenses, including without limitation, attorneys' fees and costs; and

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____
The Honorable William H. Alsup
United States District Court Judge

1 Dated: December 29, 2006

RESPECTFULLY SUBMITTED,

2 ORRICK, HERRINGTON & SUTCLIFFE LLP

3
4 /s/ Clifford R. Michel

5 Clifford R. Michel
6 Attorneys for Plaintiff
NCR CORPORATION

7 Dated: December 29, 2006

TOWNSEND AND TOWNSEND AND CREW LLP

8
9 /s/ April E. Abele

10 April E. Abele
11 Attorneys for Defendant
ZAPPOS.COM, INC.